REMARKS

Claim 1 has been amended to correct a minor grammatical error. No new matter has been added.

Rejections under 35 USC §103

Claims 1 - 7, 11-14, 16 and 19 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ghisalberti (WO 01/17497) in view of Murad (US Patent 6,630,163).

Ghisalberti ('497) describes a cosmetic and/or dermatological composition and a method for the treatment and/or prevention of hyperpigmented skin. Ghisalberti's composition may comprise 3-hydroxypyr(id)one derivatives.

Ghisalberti is entirely directed to the treatment of pathologies resulting from an impairment of the activity of melanocytes, such as the increased production of melanin resulting in hyperpigmentation.

On page 4 of the Office Action the Examiner points to page 3, lines 10-11 of Ghisalberti which states: "the formation of pigmentary spots may result from the combination of blood extravasation around the injection site". However, blood fluid leakage at an injection site is not the result of a pathology caused by a skin microcirculatory disorder. Injection site blood is a side effect of a punctured blood vessel. Furthermore, the hemoglobin in injection site blood leakage is promptly bound to dermal and connective proteins forming hemosiderin deposits, which in turn may stimulate the activity of the surrounding melanocytes. A skilled worker would recognize that spots that are hemosiderinic in nature do not arise from microcirculatory disorders but rather hemosiderin spots are the result of increased production of melanin.

Ghisalberti is silent regarding the treatment of skin microcirculatory disorders. Ghisalberti is particularly silent regarding treatment of purpura, rosacea capillaritis, rosacea, cutaneous vasculitis, itching purpura, purpura annularis telangiectodes, contact allergy skin capillaritis, traumatic skin hemorrhage or actinic purpura.

Thus, Ghisalberti only deals with the treatment of hyperpigmented skin which results from excess of melanin and/or by hemosiderin deposits, thus making the skin turn

to a brown color. Spots that are hemosiderinic in nature do not arise from microcirculatory bleeding. Skin microcirculatory disorders are characterized by red spots and marks due to the perception of superficial blood flow and bleeding under the skin. Pathologies caused by skin microcirculatory disorders are not similar to the hyperpigmentation disorders disclosed in Ghisalberti.

Murad et al. (US 6,630,163) teaches the use of fruit extracts for neutralizing free radicals. At col. 7, line 65 to Col. 8, line 12 Murad lists numerous etiologically different dermatological disorders that may be treated with fruit extracts.

> "The term "dermatological conditions," as used herein, means conditions present anywhere on the skin caused by aging or extrinsic factors such as sunlight, radiations, air pollution, wind, cold, dampness, heat, chemicals, smoke, and smoking. Dermatological conditions include, but are not limited to, dry skin; dandruff; warts; acne; keratosis; psoriasis; eczema; pruritus; age spots; reduced skin moisture; spider veins; senile purpura; lentigines; melasmas; deepening of skin lines; blotches; wrinkles; blemished skin; nodules; atrophy; rosacea; impetigo; precancerous lesions; elastotic changes characterized by leathery, course, rough, dry and yellowish skin; telangiecatic skin; hyperpigmented skin; hyperkeratotic skin; nail infections; inflammatory dermatoses; and damage to hair including, but not limited to, hair breakage, weathering damage, and thinning of hair. "

Thus, the reference broadly teaches a method for treating almost any dermatological disorder. Included in the list are some microcirculatory skin disorders such as senile purpura and rosacea. The list also includes hyperpigmented skin. Whatever its merits, Murad does not teach that an agent useful for treating hyperpigmented skin is useful for treating microcirculatory skin disorders, and vice versa. Its disclosure is limited to fruit extracts. There is no rationale for extrapolating Murad's teaching to the agents recited in the claims, nor is there any basis in fact for doing so.

Furthermore, according to '163 the fruit extracts can be used to treat any dermatological disorder due to the anti- free radical properties of the extracts. Thus, a variety of pathologies or very different etiology can allegedly be "treated". The '163 patent makes incredible claims regarding its antioxidant fruit extracts, but a skilled worker would recognize that one agent

can not, credibly, be used to treat all the pathologies listed in US 6,630,163. For example, a skilled worker would expect that psoriasis may be treated with corticosteroids; acne may be treated with antibiotics; nail infections may be treated with antifungal agents, spider veins may be treated by sclerotherapy and wrinkles may commonly be treated with anti-age creams. But this does not mean that an antifungal agent may be used to treat wrinkles, that anti-age creams may be used to treat psoriasis or that sclerotherapy can be used to treat nail infections.

In other words, contrary to the Examiner allegations, US '163, even in the best case, does not teach a skilled worker that any particular compound, which is normally used to treat hyperpigmentation, can also be used for the treatment of microcirculatory skin disorders such as rosacea and purpura. A skilled worker would simply not believe it is possible to use a single drug to treat all the pathologies listed in US 6,630,163, particularly, since the mechanisms of action among the various pathologies are so different even if it was believable that fruit extracts were so useful.

Thus, a skilled worker would not be motivated to use the compounds disclosed by WO 01/17497 to treat microcirculatory disorders.

Thus, in view of the above, it is respectfully requested that the rejections under 35 USC §103 be withdrawn.

Respectfully submitted,

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